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From: Jean Macheledt
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Date & Time: 11/2/2007 4:19:45 PM
Pages: 3
Re: App Control No 10/791,507

Attached please find a 2-page response to the restriction mailed from the Patent Office on 03 Oct'07.

Respectfully,

Jean Macheledt
Attorney of Record for Assignee/Applicants
Reg No. 33,956
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Appl. No. 10/791,507
Response dated 2nd November 2007
Reply to Office communication mailed 03 Oct 2007

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

→ Please auto respond to FAX 970.267.8893

In re Application of:

Douglas C. Hittle, Ph.D.

Amy Sarah Lee, Ph.D.

Filed: 01 March 2004

Serial No: 10/791,507

Confirm: 2758

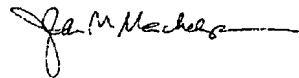
Docket: CSURF -112A

For: *Tile Structures having Phase Change
Material (PCM) Component for use in Flooring
and Ceilings*

Primary Exr: Catherine A SIMONE

Group Art: 1772

)
) FACSIMILE TRANSMISSION/DEPOSIT 02 pages total herein.
) I hereby certify under 37 CFR 1.8(a) that a signed original copy
) of this paper is being sent as authorized by 37 CFR 1.6(d) on the
) date indicated *via* standard tel. facsimile transmission; or *via*
) U.S. postal mail with sufficient postage, respectfully as follows:
) ✓ *If by FAX to new Central N°: (571) 273-8300*
) *If by post ATTN Catherine A SIMONE*
) **MAIL STOP: NON-Fee Response**
) Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450
) Date of Transmission/deposit: Friday, 02nd day of Nov, 2007
) By: Jean M Macheledt (printed name)
) signed:



NON-FEE Response to Election/Restriction Requirement of 03 October 2007

Petition ~~none needed~~ months to respond + Authorization to charge additional FEES, if necessary

Applicants hereby petition to request an extension of time to respond of ~~<0>~~ mos. under 37 CFR 1.136(a), permitting the attached response and amendments to be entered, as applicants are within shortened statutory time permitted by the examiner. The fee of \$0 ~~<none due>~~ required under §1.17(a)(1) [1251/2251] is to be charged ~~attached is credit card authorization PTO FORM 2038~~. If determined that an amount is due as a result of the attached response, such amount is to be charged to Macheledt Bales LLP deposit acct no. 020725.

No duplicate copy of this FAX-filed first page is enclosed.

N/A

Macheledt Bales & Heidmiller LLP

Jean M Macheledt, Reg. N° 33,956

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Fort Collins, CO 80525

Direct tel. (970) 218-6798

Appl. No. 10/791,507

Response dated 2nd November 2007

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Response to Election/Restriction Communication; Election with Traverse

This election *without traverse* is made in response to the Patent Office examiner's communication (Election/Restriction) under 35 U.S.C. 121, employing [DETAILED ACTION, Page 2]" mailed 03 October 2007, for which response is due *without petition for extra time* by Monday, 05 Nov 2007 (Nov 03 falls on a Saturday), identifying three groupings (I, II, and III). While the examiner notes a call was made on 08/20/2007: No message or other indication of contact was left for undersigned, suggesting that the examiner had attempted contact. The undersigned encourages the examiner to call as she sees fit in an effort to expedite prosecution.

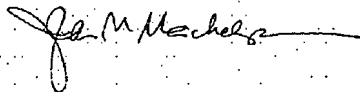
Focus initial review to Group I (claims 1-7)

So that prosecution on the merits of the instant application can be entered—and the examiner may proceed to search the record—applicants have chosen to focus prosecution to those claims drawn to the structure identified by the examiner as belonging to **Group I**, namely, claims 1 – 7. Applicants hereby elect **Group I**. **Group I** includes claims which the examiner believes fall within a particular identified class and subclass; this restriction being deemed proper by the examiner because the claims as filed recite “inventions [that] are independent or distinct ... and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search.” The examiner states, further: “Group I claims 1-7, which are directed to a tile structure having a composition of a binder material, a phase change material and a granular base medium.”

GENERAL REMARKS

As is known, an allowed generic claim may link species embraced thereby. Those claims directed to different species of an allowed generic claim can be rejoined for allowance within the same application. In sum, an election has been made by applicants based on examiner requirement, as can best be understood, to those claims directed to structures singled-out as **Group I**, in an effort to move prosecution forward. It is understood that, at this point in time, **no claim** will be cancelled even though it may be withdrawn from further consideration herein, as being directed to another of the patentably distinct groupings.

Respectfully submitted this 02nd day of November 2007



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